IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Crl.MC.No. 2576 of 2007()

S.C.NO.474/2006 OF ASSISTANT SESSIONS JUDGE, FAST TRACK COURT NO.III(AD HOC) MANCHERI DATED 27.11.06)

PETITIONER: ACCUSED NO.4

VELLATHUR UMMER,S/O. KUNHAHAMMED,
ATHAVANAD POST, THIRUNAVAYA VIA,
MALAPPURAM DISTRICT.

BY ADV. SRIC.M.MOHAMMED IQUABAL

RESPONDENTS: COMPLAINANT & STATE
---

1. THE TAHSILDAR,
TIRUR.

2. STATE OF KERLA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA , ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

Crl.M.C. No.2576 Of 2007

= = = = = = = = = = = = = =

Dated this the 13th day of August, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable, inter alia,. under Secs.341 and 323 read with 149 IPC. This was a counter case to a Sessions case and hence the case was committed to the Court of Sessions. The petitioner was not available for trial. The case against him was split up. All the accused were found not guilty and acquitted. According to the petitioner, he is absolutely innocent. The petitioner's absence earlier was not wilful and was on account of reasons beyond his control, it is submitted. The petitioner is now willing to appear before the learned Sessions Judge and co-operate with the early disposal of the case, but he apprehends that his application for bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously.

2. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the learned Sessions Judge. I have no reason to assume that the learned Sessions Judge would not consider such application on merits, in

accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself, unless there are compelling reasons.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE